



Victoria Davis Lockard
Tel 678.553.2100
Fax 678.553.2212
lockardv@gtlaw.com

January 30, 2024

VIA ECF

The Honorable Robert B. Kugler
United States District Court Judge
District of New Jersey
Mitchell H. Cohen Building & U.S. Courthouse
4th & Cooper Streets Room 1050
Camden, NJ 08101

Special Master the Honorable Thomas Vanaskie
Stevens & Lee
1500 Market Street, East Tower
18th Floor
Philadelphia, PA 19103

Re: In re Valsartan, Losartan, and Irbesartan Products Liability Litigation
Case No. 1:19-md-02875-RBK-JS

Dear Judge Kugler and Special Master Vanaskie:

This letter is to provide Defendants' positions with respect to the topics on the agenda for the Case Management Conference with the Court on February 1, 2024. The parties do not expect the need to discuss any confidential materials as part of these agenda items.

1. Status of Defendants' Indemnifications/Insurance

On Saturday, January 27, 2024, Plaintiffs' Counsel sent a request for Defendants to provide updates, if any, to the insurance/indemnification information disclosures and productions previously ordered by the Court. The Defendants' Executive Committee shared that request with the full Joint Defense Group and have not received any objections to date. The TPP Trial



The Honorable Robert B. Kugler
Special Master the Honorable Thomas Vanaskie
Page 2

Defendants (ZHP, Teva, and Torrent) have agreed to provide updates with respect to any new or differing insurance or indemnity information, and we expect the remaining Defendants will respond, update or object as appropriate on behalf of their individual clients.

2. Production of Retailer Sales Data for Losartan and Irbesartan

Liaison counsel for the Valsartan pharmacy defendants conferred with Plaintiffs' counsel on Friday, January 26, 2024, and counsel for certain (but not all) of the pharmacies met and conferred on the date of this submission, regarding the production of unredacted dispensing data in losartan and irbesartan class actions. (Notably, not all Valsartan pharmacy defendants are named defendants in the losartan and irbesartan class actions.) Counsel for the pharmacies who met with Plaintiffs' counsel believe meetings have been productive but are in their early stages, and Plaintiffs have not yet engaged all pharmacies from which they appear to seek dispensing data as of the date of this submission. The pharmacies would not object to a reasonable schedule for any disputes that arise generally or as to specific pharmacies, but any substantive discussion with the Court about this issue is premature until the parties have had a more fulsome opportunity to consult with their clients and meet and confer.

3. Status of Wholesalers' CMO 32 Productions

Wholesaler Defendants have produced the pricing data responsive to CMO 32 sections 7.1.2 and 7.1.3. With respect to the data referenced in section 7.1.1, at Plaintiffs' suggestion, Wholesaler Defendants have been working to develop a proxy formula for approximating profit data regarding VCDs because, as they previously advised Plaintiffs and the Court, Wholesaler Defendants do not, in the ordinary course of business, calculate or maintain profit information on



The Honorable Robert B. Kugler
Special Master the Honorable Thomas Vanaskie
Page 3

VCDs either on an NDC basis or individual transaction basis. At this point, Wholesaler Defendants are close to finalizing those proxy formulas, and have proposed that the parties meet and confer the week of February 5th to discuss where each of the Wholesalers are on those proposed proxy formulas.

With respect to targeted discovery of Wholesaler Defendants' custodians regarding valsartan referenced in CMO 32 section 7.2, Wholesaler Defendants made a proposal to Plaintiffs on August 25, 2023, regarding proposed search terms and proposed custodians for all custodial discovery regarding valsartan, losartan, and irbesartan. Wholesaler Defendants have not heard back from Plaintiffs, but given Plaintiffs' requests for discovery regarding losartan and irbesartan served on May 22, 2023, Wholesaler Defendants believe it is most efficient and cost effective to negotiate, conduct, and complete custodial discovery (which involves significant e-discovery efforts) at the same time and on the same schedule for all three products. Wholesaler Defendants await Plaintiffs' response.

4. Amended Daubert Order on Teva's Liability Expert Timothy Anderson

Plaintiffs have indicated confusion or the desire to address what they have characterized as potentially conflicting rulings created by the Court's order vacating its prior opinion with respect to Teva expert Timothy Anderson and new order regarding Mr. Anderson's liability expert report. (ECF No. 2610 ("Amended Order")). However, as Defendants expressed to Plaintiffs by email, the Amended Order vacated those portions of the prior order specifically concerning Mr. Anderson, and the Amended Order's exclusions and bases for said exclusions are now operative. (*Id.* at 1 (**"ONLY that portion of this Court's Opinion at Doc. No. 2581 and ONLY**



The Honorable Robert B. Kugler
Special Master the Honorable Thomas Vanaskie
Page 4

that portion of this Court's Order at Doc. No. 2582 specifically concerning Timothy Anderson's expert report on class certification dated 12 Jan 2022 are **VACATED**;" (emphasis in original))). Accordingly, there can be no inconsistencies between the rationale in the prior, vacated order, and the amended, operative order. Teva understands the Court's latest order and believes no further action is needed at this time.

5. Discussion of Next Trial

Plaintiffs proposed adding discussion of the "Next Trial" in this litigation to this agenda for the first time on January 29, 2024. Defendants were not previously aware Plaintiffs intended to discuss this with the Court at the February 1st Case Management Conference, and the parties have not met and conferred in earnest on this topic. Defendants believe this agenda item is premature and that the Court and the parties' time is better spent discussing items for the March 18th TPP trial. To the extent the Court wishes to address sequential trials, Defendants request that Plaintiffs submit their proposal to Defendants and the parties engage in a meet and confer prior to submission of position statements on this topic.

6. Update on Status of Meet and Confers on TPP Trial Motions in Limine

Counsel for Plaintiffs and the TPP Trial Defendants have exchanged respective lists of anticipated motions in limine and have conducted at least four separate zoom meetings to meet and confer regarding motions in limine in a good faith effort to reduce and narrow disputes requiring briefing. Although the parties have made good progress in identifying many areas of agreement, we anticipate multiple motions in limine will need to be briefed and argued. The parties



The Honorable Robert B. Kugler
Special Master the Honorable Thomas Vanaskie
Page 5

expect to present the Court with a joint proposal on briefing and page limits for the remaining issues.

7. Plaintiff Fact Sheet Deficiencies and Orders to Show Cause

Cases Addressed at the January 4, 2024 Case Management Conference:

The Court issued six show cause orders returnable at the February 1, 2024 Case Management Conference:

1. *E/O Alexandra Samocha v. Hetero, et al.* – 21-cv-17384
2. *Benjamin Andrews v. ZHP, et al.* – 21-cv-10908
3. *Ocie Mae Haughton v. Aurobindo, et al.* – 23-cv-3646
4. *Robert Kennedy v. Aurobindo, et al.* – 23-cv-13282
5. *Tom Davidson v. ZHP, et al.* – 23-cv-11870
6. *Stelio Mantalis v. Aurobindo Pharma, Ltd.*, – 23-cv-14463

The issues in the *Andrews*, *Haughton*, *Kennedy*, *Davidson*, and *Mantalis* matters are resolved, and the show cause orders may be withdrawn.

The issues in the *Samocha* matter remain unresolved, but the parties agree to an extension of the show cause order until the next case management conference.

Second Listing Cases – Order to Show Cause Requested:

None.

First Listing Cases – Remaining Core Deficiencies:

The following Plaintiff Fact Sheets contain core deficiencies which remain unresolved. This list was provided to Plaintiffs' leadership on January 23, 2024. Defendants have also been available for further discussion as needed. This is the first time these cases have been listed on this agenda. Accordingly, Defendants are not requesting orders to show cause with respect to any of the below cases at this time and will continue to meet and confer to resolve these deficiencies.



The Honorable Robert B. Kugler
Special Master the Honorable Thomas Vanaskie
Page 6

	Plaintiff	Civil Action No.	Law Firm	Deficiencies	Deficiency Sent
1.	Oswald Anfossi v. ZHP, et al.	20-cv-16066	Berman Law Group	7. Need medical expenses; Authorizations must be undated and addressed to providers, not a blank template.	GT – 12/20/23
2.	Susan Schaefer v. ZHP, et al.	23-cv-21673	Goldenberg Lauricella PLLC	8. Need Medical Expenses	GT – 1/10/24
3.	Regina Hill v. Aurobindo Pharma Ltd. et al.	23-cv-41250	Farr, Farr, Emerich, Hackett, Carr & Holmes P.A.	9. Authorization missing for Weil Cornell	MLB – 11/16/23
4.	Anthony Ivers v. ZHP, et al.	23-cv-21150	Levin Papantonio Rafferty	10. Missing medical expense records	MLB – 1/19/24
5.	Jerry Anderson v. Aurobindo Pharma, Ltd., et al.	23-cv-13680	Farr, Farr, Emerich, Hackett, Carr & Holmes P.A.	11. Missing proper estate representation documentation, missing medical expense records, declaration not signed, amended PFS not uploaded to MDL Centrality	MLB – 12/19/23
6.	Mark McNall v. Aurobindo, et al.	23-cv-21327	Fleming Nolen	12. No PFS Filed	PFS Due - 12/20/23



The Honorable Robert B. Kugler
 Special Master the Honorable Thomas Vanaskie
 Page 7

7.	Nathaniel Green v. Aurobindo, et al.	23-cv- 22298	Nigh Goldenberg	13. No PFS Filed	PFS Due - 1/12/23
8.	Soraya Svoronos v. Torrent, et al.	23-cv- 22220	Dell and Dean PLLC	14. No PFS Filed	PFS Due - 1/16/23
9.	Paul Marchionda v. ZHP, et al.	23-cv- 22446	Levin Papantonio	15. No PFS Filed	PFS Due - 1/17/23
10.	Bobby Williams v. Aurobindo, et al.	23-cv- 22452	Levin Papantonio	16. No PFS Filed	PFS Due - 1/17/23

Respectfully submitted,

/s/ Victoria Davis Lockard

Victoria Davis Lockard

cc: Adam Slater, Esq. (*via email, for distribution to Plaintiffs' Counsel*)
 Jessica D. Miller, Esq. (*via email, for distribution to Defendants' Counsel*)
 Lori G. Cohen, Esq. (*via email*)
 Clem C. Trischler, Esq. (*via email*)
 Sarah E. Johnston, Esq. (*via email*)
 Jeffrey D. Geoppinger, Esq. (*via email*)